

**IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

**ITA No. 2286/Mum/2024
(Assessment Year: 2013-14)**

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| Shiv Art Chains Pvt Ltd 34/C, Gala No. 1 & 2 Thakkar Industrial Estate Chapsi, Bhimji Road, Mazgaon – 400010. | Vs. | ITO, Ward 8(2)(1) MK Road, New Marine Lines, Churchgae |
| PAN/GIR No. AALCS8560R | | |
| (Applicant) | | (Respondent) |

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| Assessee by | Shri Gaurav Kabra |
| Revenue by | Shri Nagnath Bhimrao Pasale, Sr. AR |

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| सुनवाई की तारीख/Date of Hearing | 13.11.2024 |
| घोषणा की तारीख/Date of Pronouncement | 27.11.2024 |

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 01.03.2024, passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi ('Ld. CIT(A)'), for the assessment year 2013-14. The assessee has raised the following grounds of appeal:

1. On the facts and circumstance of the case as well as in law, the Hon'ble CIT(A) has erred in confirming the action of the ITO

making an addition of Rs. 86,94,867/- in respect of loan of Rs. 80,00,000 from the Director, Shir Jagdish Mehta and further interest payment of Rs. 6,94,867/- on the said loan.

2. The only ground raised in the present appeal relates to challenging the order of Ld.CIT(A) in confirming the additions made by the Ld.AO u/s 68 of the Act.

3. In this regard, we have heard the counsels of both the parties and we have also perused the material placed on record, orders passed by the revenue authorities. From the record, we noticed that the assessee is engaged in the business of manufacturing and trading of bullion and gold jewellery. During the course of assessment proceedings it was observed that the assessee had taken loan of Rs. 80,00,000/- from its Director Mr. Jagdish Mehta for which details and confirmation was sought. Since the assessee could not submit the same and it was further noticed from the bank statement that Mr. Jagdish Mehta got loan from M/s Shiv Reality Developers, in this regard no supporting documents were furnished before the Ld.AO. Thus it could not be ascertained as to whether the said M/s. Shiv Reality Developers was assessed to tax or not. Therefore, on this basis addition u/s 68 of the Act were made by the Ld.AO which were confirmed by the Ld.CIT(A) as well.

4. Now, before us, Ld.AR argued that Ld.AO could not have asked source of source of the loan of Rs. 80,00,000/- as the amendment in the Act took placed in 2022 in Sec. 68 of the

Act, which will take effect from A.Y 2023-24 and subsequent years and in this regard also relied upon the decision of the Coordinate Bench of the ITAT in **ITA No. 2869/Del/2019 in the case of ITO Vs. Balwan Singh.**

5. After having gone through the entire facts of the present case and after hearing the parties at length, we found that during the appellate proceedings remand report was also sought by the Ld.CIT(A) and even during the remand report the assessee fail to furnish satisfactorily regarding the loan taken by him from its Director Mr. Jagdish Mehta and therefore the said claim of the assessee could not be verified.

6. Although, we are of the view that source of source could not have been asked by the Ld.AO in view of the amendment which took place in 2022 in Sec. 68 of the Act, as in our view the said amendment will take effect from A.Y 2023-24 and subsequent years but in the present case initial burden was to be discharged by the assessee to prove the creditworthiness of the loan taken by him from its Director Mr. Jagdish Mehta.

7. Although, the Ld.CIT(A). Ld.AR drawn our attention to paper book filed before us which contains acknowledgment of return of income for A.Y 2013-14 of the paper book, confirmation of loan extract of bank statement of Director

reflecting amount given but since the transaction of the assessee was not verifiable in the absence of required documents. Therefore Bench is of the view that matter can be restored back to the file of the Ld.AO along with documents filed by the assessee before us. So as to enable the Ld.AO to verify the claim of the assessee and to pass afresh order after providing opportunity of hearing. The assessee is also at liberty to file any other documents before the Ld.AO in support of his claim and Ld.AO is also at liberty to call for any other document for verifying the claim of the assessee after satisfying himself. With these directions, we restore the matter to the file of the Ld.AO for afresh decision.

8. Before parting, we make it clear that our decision to restore the matter back to the file of the AO shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the AO independently in accordance with law.

9. In the result, the appeal filed by the assessee allowed for statistical purposes.

Order pronounced in the open court on 27.11.2024.

Sd/-

(PADMAVATHY S)
ACCOUNTANT MEMBER

Sd/-

(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 27/11/2024

KRK, PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai